Senate Local Govt. Comm.
Exhibit No. 10
Date 3-18-2011
Bill No. HB 542

March 16, 2011

TO: Chairman Sonju, members of the Senate Local Government Committee and Representative John Esp.

RE: HB 542

FROM: Linda Stoll, on behalf of the Montana Association of Planners

Thank you so much for this opportunity to submit written comments as a follow up to the hearing on Monday.

My first concern about HB 542 is that it, very late in the game, proposes significant policy changes to the Montana Subdivision and Platting Act. I don't think these changes have been well-vetted. The Montana Association of Planners carefully looked at the MSPA for changes its membership felt needed to be made to solve problems with the subdivision and review process and came up with just one – the need to develop language to clarify administrative problems that had arisen with regard to the MSPA's subdivision for lease or rent statutes.

Making changes to the MSPA should not be taken lightly. Such changes require every county in the state to be forced into the job of revising its respective subdivision regulations – a time-consuming and sometimes expensive process. I know of no local governments that have an excess of either time or money so that has to be taken from somewhere else in the budget and county work plan.

The agricultural policy issue that Rep. Esp proposes to change should more appropriately be considered by an interim committee where more time and consideration could be given to this important issue. It should be a thoughtful process that engages far more voices than the few you heard at the committee hearing on Monday night.

My specific comments will be addressed to the bill as if the sponsor's amendments have been incorporated.

Thank you to Senator Esp for removing some of the language relative to 76-3-604. The original bill contained provisions that appeared to require a meeting between the reviewing agency and the developer - a meeting MAP suggests is unnecessary and inefficient. Moreover, the proposed language seemed to assume the submittal of an application – the current law is much clearer in this regard.

However, the other changes proposed in 76-3-604 (lines 1-7 on page two) were not stricken by the sponsor's amendments and I'm not certain they make sense anymore because they reference the meeting that was stricken. This could be more than a little problematic for people who are tasked with trying to figure out what is meant by that language!

Regarding the proposed changes to the "608" criteria (76-3-608), I've already noted that the agricultural policy change needs to be better vetted, and I appreciate greatly the sponsor's removal of "peer-reviewed" from the agency comment language on page 5. However, the remaining language is completely unworkable when it is a state agency that may have submitted the subdivision application. Members of the committee, although rare, it is the case that state agencies submit subdivision proposals (MDOT, DFWP and DNRC, just to name three that I've seen or have heard about). As I read it, those agencies would not be able to submit information relative to their own proposal. That just doesn't make any sense and I don't believe that was an intended consequence of the sponsor.

The new language contained in (9) prohibiting a governing body from considering future subdivisions will prevent master planned projects that would be developed through a number of future subdivisions. Prohibiting such consideration flies in the fact of good planning practices.

The new language proposed on page 6 (lines 16 and 17) stating that mitigation information cannot be considered as "new information" is a very bad idea from a public policy standpoint. If the subdivider is proposing mitigation measures that could have potential impacts, then it is reasonable to review that information and provide for public comment on a mitigation proposal. Often mitigation may be related to re-routing a road, for example. It would be important to consider at least the opinion of adjacent land-owners in such an example.

Mr. Chairman and members of the committee, we heard much from one side of certain subdivision decisions. Clearly, no matter how good a law is -how well written it may be- there will always be bad decisions. That doesn't mean that a particular law is at fault or that it needs to be changed. I argue that bad decisions will result in lost elections. If you truly believe in "local control" you need to allow the local processes to play out – to trust that the same people who elected you will show the same good judgment in the election of their county and city commissioners.

Thank you for this opportunity to provide comment on HB 542.